IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.1212 OF 2005

IN

SUIT NO.58 OF 2004

...

S.B.Nemani & Anr. ...Plaintiffs

v/s.

Oriental Bank of Commerce

and ors. ...Defendants

...

Mr.S.B.Kedia for the Plaintiffs.

Mr.J.Girish Nair for the Defendant No.1.

...

CORAM: D.K.DESHMUKH, J.

DATED: 6TH JUNE, 2007

P.C.:

1. This Notice of Motion is taken out by the Plaintiffs. The relief that is sought by this Notice of Motion is in the nature of final relief. By the Notice of Motion the Plaintiffs are seeking a mandatory order directing the Defendants Nos. 1 & 2 to transfer the suit shares in favour of the Plaintiffs. That is precisely the decree sought in the suit.

2. The shares which are subject matter of the suit are shares of Defendant No.1-company. Admitted position is that those shares are traded on the stock exchange. Therefore, even if ultimately the Plaintiffs are held entitled to those shares, a decree can be passed in favour of the Plaintiffs for the price of the shares prevailing on the relevant date. Other benefits to which the Plaintiffs are entitled can also be computed and directed to be paid over to the Plaintiffs. Therefore, it is not necessary, as the shares are readily available on the stock exchange, to preserve the shares or to make any order for preservation of the shares.

3. According to the Plaintiffs, the shares are presently standing in the name of Defendants Nos. 4

& 5. Even if the shares are transferred by Defendants Nos. 4 & 5, the Plaintiffs would be entitled to the monetary decree against Defendants Nos. 4 & 5. Therefore, if interim order is denied to the Plaintiffs, the Plaintiffs are not likely to suffer any irreparable injury. Therefore, there is no question of granting any temporary injunction, specially the injunction of mandatory nature in favour of the Plaintiffs. Notice of Motion disposed of.

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